

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

MARK DANIEL SWARTOUT,

Plaintiff,

v.

KILOLO KIJAKAZI,
Acting Commissioner of Social Security,

Defendant.

No. 1:20-cv-01424-GSA

STIPULATION AND ORDER FOR THE
AWARD AND PAYMENT OF ATTORNEY
FEES AND EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. §
2412(d), AND COSTS PURSUANT TO 28 U.S.C.
§ 1920

(Doc. 32)

This stipulation is intended to replace the Motion for Attorney Fees Plaintiff filed on
May 9, 2022.

IT IS HEREBY STIPULATED by and between the parties through their undersigned
counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and
expenses in the amount \$6,650.00 (SIX THOUSAND SIX HUNDRED AND FIFTY dollars)
under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of
\$400.00 (FOUR HUNDRED dollars) under 28 U.S.C. § 1920. This amount represents
compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with
this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider
the matter of Plaintiff's assignment of EAJA fees to counsel, if any. Pursuant to *Astrue v.*
Ratliff, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor any
assignment will depend on whether the fees are subject to any offset allowed under the United

1 States Department of the Treasury's Offset Program. After the order for EAJA fees is entered,
2 the government will determine whether they are subject to any offset.

3 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
4 determines that Plaintiff does not owe a federal debt, then the government shall cause the
5 payment of fees, expenses and costs to be made directly to counsel, **Olinsky Law Group**,
6 pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to
7 counsel, **Olinsky Law Group**.
8

9 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
10 attorney fees, and does not constitute an admission of liability on the part of Defendant under
11 the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from,
12 and bar to, any and all claims that Plaintiff and/or counsel including counsel's firm may have
13 relating to EAJA attorney fees in connection with this action.
14

15 This award is without prejudice to the rights of counsel and/or counsel's firm to seek
16 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
17 provisions of the EAJA.
18

19 Respectfully submitted,

20
21 DATE: May 17, 2022

/s/ Stuart Barasch
STUART BARASCH
Attorney for Plaintiff
(as approved via email)

23
24 PHILLIP A. TALBERT
United States Attorney

25 DATE: May 17, 2022

By s/ Jennifer A. Kenney
JENNIFER A. KENNEY
Special Assistant United States Attorney

27
28 Attorneys for Defendant

IT IS SO ORDERED.

Dated: May 17, 2022

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE